

BUFFALO FISCAL STABILITY AUTHORITY
Meeting Minutes
June 21, 2021

The following are the minutes from the meeting of the Buffalo Fiscal Stability Authority (the “BFSA” or the “Authority”) held on Monday, June 21, 2021. The Board met via teleconference in compliance with New York State Executive Order 202.1. The meeting was called to order at 1:04 P.M.

Board Members Present

Interim Vice-Chair Jeanette T. Jurasek
Secretary Frederick G. Floss
Director Andrew A. SanFilippo
Mayor Byron W. Brown (proxy Estrich)
County Executive Mark C. Poloncarz (proxy Swanekamp)

Board Members Excused

Chair R. Nils Olsen, Jr.

Staff Present

Executive Director Jeanette M. Robe
Principal Analyst/Media Liaison Bryce E. Link
Senior Analyst II/Manager of Technology Nathan D. Miller
Administrative Assistant Nikita M. Fortune
Comptroller Claire A. Waldron

Additionally Present

Mr. Richard A. Grimm III, Esq., Magavern, Magavern & Grimm LLP
Mr. Nathaniel Kuzma, General Counsel, Buffalo Public School District

Opening Remarks

Chair Pro Tem Floss welcomed everyone to the regularly scheduled June Board meeting, thanked all who were in attendance and reviewed the meeting’s logistics and agenda.

Roll Call of the Directors

BFSA Executive Director Jeanette Robe called the roll. A quorum being present, the meeting commenced.

City of Buffalo (“City”) Commissioner of Finance, Ms. Donna Estrich, represented Mayor Byron W. Brown in accordance with Subdivision 1 of §3853 of the BFSA Act.

Erie County Deputy Budget Director, Mr. Benjamin Swanekamp, represented County Executive Mark C. Poloncarz, in accordance with Subdivision 1 of §3853 of the BFSA Act.

Subdivision 1 of §3853 of the BFSA Act reads: “...The Mayor and the County Executive shall serve as ex officio members. Every director, who is otherwise an elected official of the City [of Buffalo] or County [of Erie], shall be entitled to designate a single representative to attend, in his or her place, meetings of the Authority and to vote or otherwise act in his or her behalf.

Such designees shall be residents of the City of Buffalo. Written notice of such designation shall be furnished prior to any participation by the signal designee....”

Chair Olsen’s Comments

Chair Pro Tem Floss advanced the meeting to read the following statement, on the behalf of Chair Olsen in his absence, pertaining to comments about the BFSA recently made by members of the Common Council pertaining to recent communication between the two entities:

“There have been recent discussions at Common Council meetings regarding BFSA’s non-cooperation and late submissions of reports. In order to set the record straight, the report referenced by Common Council, being the Buffalo Fiscal Stability Authority’s analysis on the City’s 2021-22 Proposed Budget and 2022-2025 Financial Plan, was submitted by BFSA staff to Common Council on May 14th. Common Council approved the budget on May 20th. Sufficient time was provided to consider our analysis and findings prior to the Council’s deliberation on this matter.

Second, the request to meet with Council was made one day prior to the Council’s meeting and could not be accommodated. In lieu of not being able to meet, the Executive Director indicated she would discuss any questions on any matters in the report with any Council Member or Council Staff. No questions were received.

Finally, the Council President’s comments that BFSA submitted the report to Council 20 minutes before deliberation on the final budget is inaccurate. BFSA did not submit a new item to Council on May 20th. A copy of the resolution approved by BFSA the day before was submitted; the same draft resolution had been provided to Council on May 14th. Additionally, for their convenience, a copy of the analysis and report as provided on May 14th was also enclosed, as stated in the letter.

As a matter of simple fact, Common Council members have falsely charged us with delay and non-cooperation. We continue in our call to request for a collaborative relationship for the open exchange of information in working towards the same goal which is the fiscal stability of the City.”

Chair Pro Tem Floss stated several Directors previously offered to meet with Common Council to discuss any concerns outside of BFSA Board meetings; in addition, Common Council has been invited to all BFSA meetings.

Interim Vice Chair Jurasek commented that someone from Common Council pledged to work more closely and constructively with the BFSA regarding budgetary matters and Chair Olsen’s statement reinforces the desire to work collaboratively with Common Council.

Approval of the Minutes

Chair Pro Tem Floss introduced Resolution No. 21-05: “Approving Minutes and Resolutions from May 19, 2021.”

Interim Vice Chair Jurasek motioned to approve.

Mayor Brown seconded the motion.

The Board voted 5-0 to approve Resolution No. 21-05.

Chair Pro Tem Floss noted for the record that Chair Olsen's statement will be noted in the meeting minutes and Chair Olsen will determine if the statement will be formally sent to Common Council. Chair Pro Tem Floss advanced the agenda.

City of Buffalo

Review of the 2021-22 Adopted Budget and 2022-2025 Financial Plan

Chair Pro Tem Floss stated the BFSA received corrections to the financial plan from the City on June 18, 2021. The corrected submission from Mayor Brown addresses unintended changes to the out years of the financial plan and brings the amounts consistent with what was reviewed at the May 19, 2021 BFSA board meeting. Chair Pro Tem Floss asked BFSA Principal Analyst Bryce Link to begin his presentation.

Mr. Link provided the following overview:

- Total estimated and projected revenue over the four-year financial plan were not modified
 - However, revenue sources and amounts were revised in fiscal years 2023-24 and 2024-25 related to adjustments to projections of marijuana tax revenue
- Overall, no change to total budgeted expenditures from the proposed budget
 - Individual expenditures in 2021-22 were modified by Common Council in the amount of \$1.6M
 - Expenditure adjustments are not carried forward through the entire Financial Plan
- Expenditures and revenues are balanced over the financial plan and totals \$2.2B
- The Common Council's changes result in a net total increase of \$1.6M to departmental expenditures:
 - City Clerk—an increase of \$1.4M for Common Council neighborhood initiatives
 - Common Council—net increase of \$135,000 consisting of \$119,500 for hourly salary for legislative staff and \$15,500 for three title modifications
 - Audit and Control—an increase of \$65,800
 - \$38,400 for service contracts, \$12,600 for personnel service costs, \$8,800 for professional development and travel, \$6,000 for supplies and equipment
 - All Other Departments—net increase of \$25,300
 - \$15,300 for three title modifications and an increase of \$10,000 in contract services
 - The departmental increases are funded by a budget adjustment and corresponding reduction to active employee health insurance in the amount of \$1.6M
 - The adopted budget amount for active employee health insurance is \$44.3M, an increase of \$5.3M over the prior year budget amount of \$39.0M
 - The stated changes only impact FY 2021-22

The modification to revenues in outyear 2023-24 of the financial plan adjusted the original estimate of \$16.0M marijuana tax revenue to \$1.6M with the difference of \$14.4M increasing in federal stimulus funding. The \$16.0M as originally estimated for marijuana tax revenue for FY 2024-25 was adjusted to \$2.6M with the difference projected to be funded with an additional \$13.4M in property sales. The financial plan remains balanced.

Hearing no additional comments Chair Pro Tem Floss asked for a motion to approve the financial plan as a whole noting the financial plans for the Buffalo City Schools District (“District”), Buffalo Urban Renewal Agency (“BURA”) and Buffalo Municipal Housing Authority (“BMHA”) were reviewed at the May 19, 2021 BFSA Board meeting and deemed in compliance with the BFSA act. With respect to the City’s Financial Plan, we required supporting documentation be provided for certain revenue estimates. On June 8, 2021, the BFSA reviewed the District’s 2021-22 Adopted Budget noting a financial plan revision was not necessary. The current review deems the City’s financial plan complete and meeting the requirements of the BFSA act.

Interim Vice Chair Jurasek made the request motion to approve the financial plans in their entirety.

Director SanFilippo seconded the motion.
The Board voted 5 to 0 to approve.

Chair Pro Tem Floss advanced the agenda to the Buffalo City School District.

Buffalo City School District (“BCSD” or “District”)

Review of proposed labor agreement of Buffalo Educational Support Team (“BEST”)

Chair Pro Tem Floss stated Superintendent Cash submitted a proposed labor agreement between BCSD and BEST, which represents teacher aids, teaching assistants and healthcare aids. A funding plan was submitted on June 15, 2021. BFSA Senior Analyst II Nathan Miller was asked to review the staff’s analysis.

Mr. Miller provided the following overview:

- Previous labor agreement expired on 6/30/12
- Proposed Successor Agreement will be effective 7/1/21 through 6/30/25
- Covers Teaching Assistants, Teacher Aides and Healthcare Aides
 - Teacher Aides - 544 FTEs (GF)/565 FTEs (AF)
 - Healthcare Aides - 7 FTEs (GF/AF)
 - Grouped within Teacher Aides for budgetary purposes
 - Teaching Assistants - 249 FTEs (GF)/386 FTEs (AF)
- Buffalo Board of Education to consider approving the Successor Agreement on 6/23/21

Wage Increases

- The agreement provides updated wage schedules,
 - An annual rate of 10.5% increase from FY 2020-21 to FY 2021-22 for both healthcare and teacher aides
 - Teaching assistants are NYS certified and have an annual rate of increase ranging from 31.0% to 38.0% from FY 2020-21 to FY 2021-22
 - All positions have a 2.3% annual rate of increase over the life of the agreement

Signing Bonus

- Current and active full-time unit members who were on the payroll in the 2020-21 school year will receive a one-time signing bonus based on their service years as of 7/1/21. The bonuses are dependent on the years of service and range from \$0, for those with less than one year of service, and up to \$2,500 for those with 21 years or more of service.
 - Part-time employees will receive 50% of the full bonus
 - This will be recorded as an expenditure for the current fiscal year of \$1.4M

Longevity Payments

- Employees who have completed at least 9 service years receive an annual longevity payment in addition to hourly wages
- Effective 7/1/21, the Successor Agreement amends the longevity schedule and ranges between \$575 and \$2,500 dependent upon the number of service years

Extra Activities

- Unit Member Position Responsibilities
 - A unit member assigned to provide primary support to a classroom in the absence of a teacher or substitute will receive a \$5/hour stipend along with the normal rate of pay
- In-Service Training
 - All employees who take part in the program outside of normal working hours are compensated at the unit member's standard hourly rate
 - Previously \$6.25/hour
- Unit Members Working with Student with Special Physical Management Needs
 - Unit members whose duties require the fulfillment of special physical management needs receive an additional \$2/hour

Sick Leave

- Unit members who work at least 6 hours a day and 30 hours a week are credited with an 11-day sick leave allowance with full pay
- A maximum of 180 days may accrue, earned at a rate of one day for each month of service during the school year
- The agreement eliminated the sick bank benefit and establishes a sick leave incentive which may be earned 4 times per year; therefore, a member can earn up to \$600 per year

Active Employee Health Insurance

- Employees who work 6 hours daily and 30 hours weekly receive hospital and medical coverage under the BEST medical care plan
- Successor Agreement establishes that active employees shall begin to contribute toward their health insurance premium as follows:
 - Effective 7/1/21 - \$250 single/ \$500 family
 - Effective 7/1/22 - \$275 single/ \$550 family
 - Effective 7/1/23 - \$300 single/ \$600 family

- The Successor Agreement establishes that eligible employees are entitled to receive Traditional Blue POS 204/204 Plus health insurance
 - Unit members will be transitioned to this lower cost plan within 60 calendar days after the agreement's ratification
 - BEST FY 21-22 Premium-Equivalent Rates (\$9,734 (S)/\$26,914 (F)
 - Traditional Blue POS 204 FY 21-22 Premium-Equivalent Rates \$9,469 (S)/\$20,866 (F)
 - Beginning 1/1/22, the parties agree to work collaboratively to effectuate the District's coverage administration
 - Beginning 1/1/23, the parties agree that the District will administer health insurance for active and retired unit members
- The Successor Agreement additionally adds contractual language in the following active health insurance areas:
 - Coverage during a leave of absence
 - Notification of family status changes
 - Spousal eligibility
 - Open enrollment
 - Re-enrollment
 - Insurance Committee participation

Retiree Health Insurance

- Employees may be eligible for health insurance at retirement
- Employee must be employed by the District and must have completed at least 13 active service years
- Retirees and their spouses must take Medicare Part B coverage at age 65 to maintain their District-provided health insurance unless the retiree pays \$100/month to maintain the District-provided health insurance
- Active employees who retire under the Successor Agreement are provided the Traditional Blue POS/204 Plus health insurance plan and contribute the same amount contributed by active employees
- Active employees who retire under the Successor Agreement must also enroll in both Medicare Part A and Part B upon eligibility
- All employees and eligible dependents who retire under the Successor Agreement's terms must pay 100% of Medicare Part B's cost (2021 - \$148.50/month)
 - The District may cancel a retiree's healthcare coverage for failure to maintain both Medicare Part A and Part B
- Retirees and spouses move to a Medicare Advantage plan at eligibility
 - \$5,940 (in-area) \$6,732 (out-of-area)
- Future employees will not be eligible for retiree health insurance
- The Successor Agreement additionally adds contractual language in the following retiree health insurance areas:
 - Notice of family status changes
 - Divorce
 - Right to return to the benefit plan
 - \$40/month in-lieu-of health insurance payment
 - Active employees who retire on or after the agreement's ratification are not eligible for the in-lieu-of-health insurance payment

The District estimates that the Successor Agreement's terms will have a District-wide net cost of \$26.4M, of which \$22.1M will impact the General Fund. The District notes that between 10%-17% of the Successor Agreement's prospective costs will likely be funded by the Special Projects Fund. The incremental labor costs will be funded through projected surpluses, the use of contingency reserves, and fund balance assigned for labor negotiations. Ms. Robe reviewed the cost analysis and related funding.

Chair Pro Tem Floss asked if the signing bonus will be covered by the federal COVID funds. Ms. Robe stated the District anticipates using the 2020-21 surplus to cover the expense of the signing bonus and District General Counsel Mr. Nathaniel Kuzma agreed.

Summary and Recommendation

Ms. Robe gave the following summary and recommendations that the Successor Agreement:

- Updates certain management rights, provides raises to a collective bargaining unit that has been out-of-contract for a protracted period, and incentivizes sick leave usage reduction
- Establishes healthcare premium contributions for active employees and allows for District administration of the program
- Requires retirees and their spouses to shift into a lower cost Medicare Advantage plan upon eligibility
- Establishes that future hires will not be eligible for District-funded health insurance at retirement
- Establishes new wage schedules that increase hourly compensation
 - The teaching assistants wage schedule was significantly increased to help attract and retain NYS-certified employees
- Has a FY 2020-21 estimated \$1,382,380 net cost
 - These costs will be funded through the District's General Fund
 - The District has projected a year-end surplus that is sufficient to address the increase in labor costs
- Incremental labor costs for years 2022 through 2025 are funded through a mix of:
 - Pre-existing Financial Plan labor increases
 - Use of contingency reserves within the Financial Plan
 - Use of projected surpluses over the Financial Plan
 - Use of fund balance:
 - Set-aside for labor contracts - \$2.0M
- It is recommended the BFSA Board of Directors require the submission of a modified financial plan to solidify the funding plan for this labor contract. The incremental labor costs should be reflected in the modified plan.

Interim Vice Chair Jurasek asked for an update on the District's planning for contract negotiations as the BFSA previously reported the District's annual contingency set-aside has been too low. Ms. Robe stated a portion of fund balance is assigned for negotiating labor contracts; whereas the contingency funds can be reallocated as needed. The annual general contingency set aside totals \$1.5M and the fund balance available for contract negotiations total \$9.0M. Ms. Robe stated the District estimated it would cost \$40.0M to bring all labor contracts current and \$9.0M is available; therefore, alternate funding sources would need to be identified. Mr. Kuzma replied the contingency fund is used at the discretion of the Superintendent. The District maintains fund balance in excess of the statutory minimum and will not identify specific labor contracts to be settled or the specific amount available for negotiations.

Hearing no additional comments Chair Pro Tem Floss asked for a motion to approve a resolution requiring the District to submit a revised financial plan by the end of July 2021.

Interim Vice Chair Jurasek made the motion as requested.

Mayor Brown seconded.

The Board voted 5 to 0 to approve.

Chair Pro Tem Floss thanked Mr. Kuzma for his attendance and advanced the agenda.

Buffalo Fiscal Stability Authority Items

Approval of BFSA 2021-22 Budget and 2022-2025 Financial Plan

Chair Pro Tem Floss advanced the agenda to approve Resolution No. 21-XX: "Adoption of 2021-22 Buffalo Fiscal Stability Authority Budget and 2022-2025 Four Year Financial Plan," as recommended to the full Board by the Audit Finance & Budget Committee.

Mayor Brown made the motion as requested.

Interim Vice Chair Jurasek seconded the motion.

Director SanFilippo asked for more information on the professional fees. Ms. Robe provided some historical context on BFSA budgeting allocations.

The Board voted 4-0 with 1 abstention from Director SanFilippo.

Privilege of the Floor

Chair Pro Tem Floss extended the Privilege of the Floor to any member of the audience who wished to comment on any actions taken during the meeting for the public record. Hearing no comments, he requested a motion to adjourn.

Adjournment

Director SanFilippo moved to adjourn.

County Executive seconded the motion.

The Board voted 5-0 to adjourn. The meeting adjourned at 2:09 P.M.